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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,266	08/31/2000	Moshe Bril	00/20770	4051

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EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/653,266

Applicant(s)

BRIL, MOSHE

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed on 17 June 2005.

Status of Claims

2. Claims 1-3, 5-7, 13, 15, 17 and 18 are previously presented. Claim 4, 8-12, 14 and 16 are left as originally filed. Claim 19 is withdrawn from consideration due to a restriction requirement. Therefore claims 1-18 are pending.

Election/Restrictions

3. Applicant's election without traverse of Group I, claims 1-18, in the reply filed on 17 June 2005 is acknowledged.

Response to Arguments

4. Applicant's arguments, filed 07 February 2005, with respect to the rejection(s) of claim(s) 1-18 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made as discussed below. Any arguments are now considered moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-8, 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godin et al. (hereinafter Godin) U.S. Patent 6,266,652 in view of Hogendoorn U.S. Publication 2002/0007339.

Regarding claim 1, Godin discloses a method of processing bids over a network for an item to be sold, using a time based factor comprising setting a first threshold bid level at which to offer the item at a first time, setting a second threshold bid level at which to offer the item at a

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second time subsequent to said first time, defining a bid time function that assigns bid price levels to intermediate times between said first time and said second time, and receiving one or more bids over a network (column 3, lines 26-64 and column 10, line 3-48 and Figure 3). Godin fails to teach upon receipt of a bid, calculating a bid time for said bid as a time to which said bid price has been assigned by said bid time function, and accepting bids received in the order of said calculated bid time. Hogendoorn teaches a Dutch auction system with preregistered bids that allow a bid processor to wait and place the bid on behalf of a potential buyer based on a time when the bid price is deemed to be acceptable (page 2, paragraphs 0019-0021). Further, Hogendoorn teaches accepting bids received in an order of respective calculated bid times (page 2, paragraph 0024 and page 3 paragraph 0031). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Godin and include the teachings of Hogendoorn of calculating a bid time for said bid as a time to which said bid price has been assigned by said bid time function, and accepting bids received in the order of said calculated bid time because it allows the user of the Godin system to submit bids in advance and not have to monitor the progress of the auction in order to submit a bid. The bid processor can submit the desired bid value when the time is appropriate based on the parameters in the auction such as the descending price over time.

Claim 2, the first threshold bid price level is higher than said second threshold bid price level and a first bid to be accepted from a plurality of bids to be received is a bid having an earliest calculated bid time (column 10, line 3-48).

Claim 3, the first threshold bid price level is higher than said second threshold bid price level and comprising the step of accepting any bid from a plurality of bids, which has an earliest calculated bid time in the past and then accepting received bids as a respective bid time is reached (column 10, line 3-48).

Claim 4, the calculated bid time is a linear function of the passage of time between said first time and said second time (column 10, line 3-48 and Figure 4).

Claim 5, bid time function is a linear function of the interval between said first threshold bid level and said second threshold bid level (column 10, line 3-48 and Figure 4).

Claim 6, bid time function is linear function of the passage of time between said first time and said second time, and of the interval between said first threshold bid level and said second threshold bid level, such that any bid within said threshold bid levels is mappable onto a calculated bid time (column 10, line 3-48 and Figure 4).

Claim 7, the second bid price level is allowed to vary during bidding as a function of a total quantity of accepted bids (column 6, lines 41-63).

Claim 8, defining a plurality of quantity price threshold levels, and using said levels to contribute to a determination of said final bid price (column 10, line 3-48 and Figure 4).

Claims 10-12, Godin fails to teach that the price is dependent on the quantity of items being purchased. Hogendoorn teaches setting a first threshold price level for a quantity of product and setting at least a second bid price level at which to offer for a second quantity of product (page 2, paragraphs 0019-0021 and paragraph 0030). Further, Hogendoorn teaches accepting bids received in an order of respective quantity (page 2, paragraph 0025).

Regarding claim 13, Godin discloses a method of processing bids over a network for an item to be sold, using a time based factor comprising setting a first threshold bid level at which to offer the item at a first time, setting a second threshold bid level at which to offer the item at a second time subsequent to said first time, defining a bid time function that assigns bid price levels to intermediate times between said first time and said second time, and receiving one or more bids over a network (column 3, lines 26-64 and column 10, line 3-48 and Figure 3). Godin fails to teach setting threshold quantities and calculating a quantity of items bid for and offering said items at an intermediate price bid level corresponding to said cumulative quantity as defined by said function. Hogendoorn teaches a Dutch auction system with preregistered bids that allow a bid processor to wait and place the bid on behalf of a potential buyer based on a time when the bid price is deemed to be acceptable based on parameters such as quantity (page 2, paragraphs 0019-0021 and paragraph 0030). Further, Hogendoorn teaches accepting bids received in an order of respective quantity (page 2, paragraph 0025). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Godin and include the teachings of Hogendoorn of placing bids based on price and, accepting bids received in an order of respective quantity because it allows the user of the Godin system to

submit bids in advance and not have to monitor the progress of the auction in order to submit a bid. The bid processor can submit the desired bid value when the quantity is appropriate.

9. Claims 9 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godin et al. (hereinafter Godin) U.S. Patent 6,266,652 in view of Hogendoorn U.S. Publication 2002/0007339 in further view of Rackson et al. (hereinafter Rackson) U.S. Patent 6,415,270.

Claims 9 and 14-18, Godin discloses a method of processing bids over a network for an item to be sold, using a time based factor comprising setting a first threshold bid level at which to offer the item at a first time, setting a second threshold bid level at which to offer the item at a second time subsequent to said first time, defining a bid time function that assigns bid price levels to intermediate times between said first time and said second time and receiving one or more bids over a network (column 3, lines 26-64 and column 10, line 3-48 and Figure 3).

Godin fails to teach using data of existing bids to calculate a probability of acceptance of a new bid at a given price level. Rackson teaches an auction coordination system and method in which existing bid price data is used to determine strategies and probabilities of bid acceptance for a potential bidder (column 24, lines 5-57). Further, the bidder has the option to set a designated strategy, to place the bid. It would be obvious to one of ordinary skill in the art at the time of the Applicant's invention that the teachings of Godin could be modified to include the probability of acceptance teachings of Rackson because it provides an efficient manner for a bidder to obtain information to assist in the bidding process. Further, it would be obvious to one of ordinary skill in the art, that the strategies taught by Rackson could include setting a desired

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acceptance level of 50%, because it is a strategy and condition that the bidder is willing to commit to in order to be successful in the auction.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
26 August 2005



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600